IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3495 OF 2004

IN

CRIMINAL APPEAL NO. 966 OF 2004

Banu @ Dilshad Abdulrauf Sayyad & Anr. .. Applicants

versus

State of Maharashtra .. Respondents

...

Mr.Nitin Jamdar for the applicants.

Mr.A.M. Shringarpure, APP for the State.

CORAM : V.M. KANADE, J

DATED : 22nd November 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the applicant and the learned APP appearing on

behalf of the State.

2. The applicants have been convicted by the trial Court u/s.8C r/w 20(b)(1) of the NDPS Act and sentenced to suffer RI for three years. The applicants were travelling in a rickshaw when the police stopped the rickshaw and took search of the rickshaw and ganja was found in the said rickshaw. The trial Court acquitted the driver of the rickshaw. The prosecution case is that since it was a chance recovery, the provisions of section 40, 41 to 50 are not attracted. The applicants were found in possession of ganja. The trial Court has convicted the accused applicants and sentenced them to suffer RI for three years.

3. The applicants are in jail from the date of their arrest and they have already undergone more than one year and six months of sentence. They are thus undergone more than 50% of the sentence. The quantity which was found in their possession is less than the commercial quantity. In view of the amendment of section 37 of the NDPS Act, the rigors of law so far as grant of bail is concerned have been considerably reduced and diluted in case of ganja. It is not possible to hear the appeal expeditiously in view of

the large number of cases which are pending where the accused are in jail for more than five years.

4. Under these circumstances, the applicant to be released on bail in the sum of Rs.5,000/- each with one or two sureties in like amount. The applicants however shall report to Local Crime Branch Police station once in a week between 11.00 a.m. to 5.00 p.m.

V.M. KANADE, J